Issued in Kansas City, Missouri on March 7, 1995.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

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BILLING CODE 4910–13–M

14 CFR Part 150

[Docket No. 28149]

Policy on Approval and Funding of Part 150 Program Noise Mitigation Measures

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed policy; request for comment.

SUMMARY: This notice requests comments on a proposed change in the Federal Aviation Administration's (FAA) policy concerning approval and eligibility for Federal funding of certain noise mitigation measures. The proposed policy would increase the incentives for airport operators to prevent the development of new noncompatible land uses around airports and assure the most cost effective use of Federal funds spent on land use measures. The revised policy would more clearly distinguish between measures that are appropriate for application to existing noncompatible development and measures that are appropriate for application to new noncompatible development. This differentiation between the use of remedial measures for existing noncompatible development and preventive measures for new noncompatible development is necessary for the FAA to determine the appropriate approval or disapproval of actions on proposed land use measures in an airport's noise compatibility program.

DATES: Comments must be received on or before April 19, 1995.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to the Federal Aviation Administration (FAA), Office of Chief Counsel, Attn.: Rules Docket (AGC–10), Docket No. 28149, 800 Independence Avenue SW., Room 915G, Washington, DC 20591. Comments may be inspected in Room 915G between 8:30 a.m. and 5:00 p.m., weekdays, except Federal holidays.

Commenters who wish the FAA to acknowledge the receipt of their comments must submit with their comments a pre-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 28149.'' The postcard will be date-stamped by the FAA and returned to the commenter.

FOR FURTHER INFORMATION CONTACT: Mr. William W. Albee, Policy and Regulatory Division (AEE–300), Office of Environment and Energy, FAA, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3553, facsimile (202) 267–5594.

SUPPLEMENTARY INFORMATION:

Background

The Airport Noise Compatibility Planning Program (14 CFR part 150, hereinafter referred to as part 150 or the part 150 program) was established under the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. 47501 through 47509, hereinafter referred to as ASNA). The part 150 program allows airport operators to submit noise exposure maps and a noise compatibility program to the FAA voluntarily. According to the ASNA, a noise compatibility program sets forth the measures that an airport operator has taken or has proposed for the reduction of existing noncompatible land uses and the prevention of additional noncompatible land uses within the area covered by noise exposure maps.

The ASNA embodies strong concepts of local initiative and flexibility. The submission of noise exposure maps and a noise compatibility program is left to the discretion of local airport operators. Airport operators may also choose to submit noise exposure maps without preparing and submitting a noise compatibility program. The types of measures that airport operators may include in a noise compatibility program are not limited by the ASNA, allowing airport operators substantial latitude to submit a broad array of measures—including innovative measures—that respond to local needs and circumstances.

The criteria for approval or disapproval of measures submitted in a part 150 program are set forth in the ASNA. The ASNA directs the Federal approval of a noise compatibility program, except for measures relating to flight procedures: (1) If the program measures do not create an undue burden on interstate or foreign commerce; (2) if the program measures are reasonably consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses; and (3) if the program provides for its revision if necessitated by the submission of a revised noise exposure map. Failure to approve or disapprove a noise compatibility program within 180 days, except for measures relating to flight procedures, is deemed to be an approval under the ASNA. Finally, the ASNA sets forth broad eligibility criteria, consistent with the ASNA's overall deference to local initiative and flexibility. The FAA is authorized, but not obligated, to fund projects via the Airport Improvement Program (AIP) to carry out measures in a noise compatibility program that are not disapproved by the FAA.

In establishing this new program, which became embodied in FAR part 150, the ASNA did not change the legal authority of state and local governments to control the uses of land within their jurisdictions. Public controls on the use of land are commonly exercised by zoning. Zoning is a power reserved to the states under the U.S. Constitution. It is an exercise of the police powers of the states that designates the uses permitted on each parcel of land. This power is usually delegated in state enabling legislation to local levels of government. Neither the FAA nor any other agency of the Federal government has zoning authority.

Many local land use control authorities (cities, counties, etc.) have not adopted zoning ordinances or other controls to prevent noncompatible development (primarily residential) within the noise impact areas of airports. An airport's noise impact area, identified within noise contours on a noise exposure map, may extend over a number of different local jurisdictions that individually control land uses. For example, at five airports recently studied, noise contours overlaid portions of from two to twenty-five different jurisdictions.

While airport operators have included measures in noise compatibility programs submitted under part 150 to prevent the development of new noncompatible land uses through zoning and other controls under the authorities of appropriate local jurisdictions, success in implementing these measures has been mixed. A study performed under contract to the FAA, completed in January 1994, evaluated sixteen airport case studies for the implementation of land use control measures. This study found that of the sixteen airports, six locations have implemented the recommended zoning measures, seven locations have not implemented the recommended zoning measures, and three are in the process of implementation.

Another recent independent study evaluated ten airports that have FAA approved part 150 programs in place and found that four locations have

prevented new noncompatible land use development and six locations have not prevented such new development. At the latter six locations the study reported that twenty-six nonairport sponsor jurisdictions have approved new noncompatible development and twenty-eight nonairport sponsor jurisdictions and one airport sponsor jurisdiction have vacant land that is zoned to allow future noncompatible development.

The independent study identified the primary problem of allowing new noncompatible land uses near airports to be in jurisdictions that are different from the airport sponsor's jurisdiction. This is consistent with observations by the FAA and with a previous General Accounting Office (GAO) report that observed that the ability of airport operators to solve their noise problems is limited by their lack of control over the land surrounding the airports and the operator's dependence on local communities and states to cooperate in implementing land use control measures, such as zoning for compatible uses.

The FAA's January 1994 study explored factors that contribute to the failure to implement land use controls for noise purposes. A major factor is the multiplicity of jurisdictions with land use powers within airport noise impact areas. The greater the number of different jurisdictions, the greater the probability that at least some of them will not implement controls. Some jurisdictions have not developed cooperative relationships with the airport operator, which impedes appropriate land use compatibility planning. Some jurisdictions are not aware of the effects of aircraft noise and of the desirability of land use controls. This appears to be caused by a lack of ongoing education and communication between the airport and the jurisdictions, and to be worsened by lack of continuity in local government.

Some jurisdictions do not perceive land use controls as a priority because the amount of vacant land available for noncompatible development within the airport noise impact area is small, perhaps constituting only minor development on dispersed vacant lots, or because the current demand for residential construction near the airport is low to nonexistent. In such areas land use control change are not considered to have the ability to substantially change the number of residents affected by noise. Jurisdictions may also give noise a low priority compared to the economic advantages of developing more residential land or the need for additional housing stock within a community. A zoning change from residential to industrial or commercial may not make economic sense if little demand exists for this type of development opportunity. Therefore, a zoning change is viewed as limiting development opportunities and diminishing the opportunities for tax revenues.

In some cases, compatible land use zoning has met with organized public opposition by property owners arguing that the proposed zoning is a threat to private property rights, and that they deserve monetary compensation for any potential property devaluation. Further, basic zoning doctrine demands that the individual land parcels be left with viable economic value, i.e., be zoned for a use for which there is reasonable demand and economic return. Otherwise, the courts may determine a zoning change for compatibility to be a ''taking'' of private property for public use under the Fifth Amendment to the U.S. Constitution, requiring just compensation.

One or more of the factors hindering effective land use controls may be of sufficient importance to preclude some jurisdictions from following through on the land use recommendations of an airport's part 150 noise compatibility program. When either an airport sponsor's or a nonairport sponsor's jurisdiction allows additional noncompatible development within the airport's noise impact area, it can result in noise problems for the people who move into the area. This can, in turn, result in noise problems for the airport's operator in the form of inverse condemnation or noise nuisance lawsuits, public opposition to the expansion of the airport's capacity, and local political pressure for airport operational and capacity limitations to reduce noise. Some airport operators have taken the position that they will not provide any financial assistance to mitigate aviation noise for new noncompatible development. Other airport operators have determined that it is a practical necessity for them to include at least some new residential areas within their noise assistance program to mitigate noise impacts that they were unable to prevent in the first place—particularly if they have airport expansion plans. Over a relatively short period of time, the distinctions blur between what is ''new'' and what is ''existing'' residential development with respect to airport noise issues.

Airport operators currently have the local discretion to include new noncompatible land uses, as well as existing noncompatible land uses, within their part 150 noise compatibility programs and to recommend that remedial land use measures—usually either land acquisition or noise insulation—be applied to both situations. These recommendations have been considered to be approvable by the FAA under part 150. The part 150 approval enables noise mitigation measures to be eligible for Federal funding, although it does not guarantee that Federal funds will be provided.

Proposed Change in Policy

At issue is whether the FAA should revise its part 150 approval policy and its AIP noise set aside funding policy so as to approve and fund only preventative noise mitigation measures for new noncompatible land use development. The FAA's goal is to have a policy in place that provides airport operators with the maximum possible incentive available under the ASNA and the part 150 program, and the FAA with the maximum possible leverage to prevent the introduction of additional noncompatible development within an airport's noise contours. The FAA also seeks to make the most cost-effective use of limited Federal dollars that have been set aside for projects to implement part 150 programs. It is the FAA's intent to revise its policy within the parameters of the ASNA, but future legislative initiatives should not be ruled out.

Discussion

The continuing development of noncompatible land uses around airports is not a new problem. The FAA, airport operators, and the aviation community as a whole have for some years expended a great deal of effort to deal with the noise problems that are precipitated by such development.

With respect to the part 150 program and Airport Improvement Program (AIP) noise grants, the FAA considered in the 1989–1990 time frame whether to disallow federal assistance for new noncompatible development. The choice posed at that time was either (1) allow Federal funding for airport operator recommendations in part 150 programs that included new noncompatible land uses within the parameters of land use measures targeted for financial assistance from the airport (e.g., acquisition, noise insulation), or (2) disallow all Federal funding for new noncompatible development that local jurisdictions fail to control through zoning or other land use controls. No other alternatives were considered.

The FAA selected the first option—to continue to allow Federal funds to be

used to mitigate new noncompatible development as well as existing noncompatible development if the airport operator so chose. Several factors supported this decision. One factor was lack of authority by airport operators to prevent new noncompatible development in nonairport sponsor jurisdictions, although airport sponsors bear the brunt of noise lawsuits. Intense local opposition to an airport can be detrimental to its capacity, especially if any expansion of airport facilities is needed. The FAA also considered the plight of local citizens living with a noise impact that they may not have fully understood at the time of home purchase. Land use noise mitigation measures, funded by the airport either with or without Federal assistance, may be the only practical tool an airport operator has to mitigate noise impacts in a community. The FAA was hesitant to deny airport operators and the affected public Federal help in this regard. In addition, the FAA gave deference to the local initiative, the flexibility, and the broad eligibility for project funding under the ASNA.

Since this review in 1989–1990, the FAA has given extensive additional consideration to the subject of noncompatible land uses around airports. In 1993, the FAA established a study group on Compatible Land Use to assist in the development of a national strategy to prevent and reduce noncompatible land uses. Pending review of recommendations from this study group on future initiatives that may require legislation, the FAA is considering whether immediate modest changes in part 150 policy and funding, within the parameters of existing legislation, would be an appropriate interim step. The proposal presented here involves a more measured and multi-faceted approach than the proposal considered in 1989–1990.

A primary criterion in the ASNA for the FAA's approval of measures in an airport's part 150 noise compatibility program is that the measures must be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses. Until now, the FAA has applied this criterion as a whole when issuing determinations under part 150; that is, if a measure either reduces or prevents noncompatible development, no matter when that development occurs, it may be approved as being reasonably consistent. No distinction has been made by the FAA between remedial land use measures that reduce noncompatible development and preventive land use measures that prevent noncompatible development. Airport operators may, therefore, recommend and receive FAA approval under part 150 for remedial acquisition or soundproofing of new residential development.

The FAA is now considering whether it would be more prudent to distinguish between (1) Land use measures that are reasonably consistent with the goal of reducing existing noncompatible land uses (i.e., remedial measures) and (2) land use measures that are reasonably consistent with the goal of preventing the introduction of additional noncompatible land uses (i.e., preventive measures). Using such a distinction, airport operators would need to clearly identify within the area covered by noise exposure maps the location of existing noncompatible land uses versus the location of potentially new noncompatible land uses. Many airport operators currently record this distinction in their noise exposure map submissions, when identifying noncompatible land uses. Potentially new noncompatible land uses could include (1) areas currently undergoing residential or other noncompatible construction; (2) areas zoned for residential or other noncompatible development where construction has not begun; and (3) areas currently compatible but in danger of being developed noncompatibly within the time frame covered by the airport's noise compatibility program.

The purpose of distinguishing between existing and potential new noncompatible development is for airport operators to restrict their consideration of remedial land use measures to existing noncompatible development and to focus preventive land use measures on potentially new noncompatible development. The most commonly used remedial land use measures are land acquisition and relocation, noise insulation, easement acquisition, purchase assurance, and transaction assistance. The most commonly used preventive land use measure are comprehensive planning, zoning, subdivision regulations, easement acquisition restricting noncompatible development, revised building codes for noise insulation, and real estate disclosure. Acquisition of vacant land may also be a preventive land use measure. Often, combinations of these measures are applied to assure the maximum compatibility.

In a revised FAA policy, airport operators would not be limited to applying the most commonly used land use measures in their noise compatibility programs. Local flexibility to recommend other measures, including innovative measures, under part 150 would be retained. However, all land use measures applied to existing noncompatible development must clearly be remedial and serve the goal of reducing existing noncompatible land uses. Similarly, all land use measures applied to potential new noncompatible development must clearly be preventive and serve the goal of preventing the introduction of additional noncompatible land uses.

Any FAA determinations issued under part 150 would be consistent under this policy. The FAA's approval of remedial land use measures would be limited to existing noncompatible development. The FAA's approval of preventive land use measures would be applied to potential new noncompatible development. The FAA recognizes that there will be gray areas which will have to be addressed on a case-by-case basis within these policy guidelines. For example, minor development on vacant lots within an existing residential neighborhood, which clearly is not extensive new noncompatible development, may for practical purposes need to be treated with the same remedial measure applied to the rest of the neighborhood. Another example would be a remedial situation in which noise from an airport's operation has significantly increased, resulting in new areas that were compatible with initial conditions becoming noncompatible. Airport operators would be responsible for making the case for exceptions to the policy guidelines in their part 150 submittals.

Federal funding of noise projects through the noise set aside of the Airport Improvement Program (AIP) would follow the same policy as the FAA's part 150 determinations—remedial funding for existing noncompatible development and preventive funding for potential new noncompatible development. The FAA would apply the same policy to those few types of noise projects, such as soundproofing of schools and health care facilities, that are eligible for AIP funds under the noise set aside without an approved part 150 program.

The impact of revising the FAA's policy on part 150 land use determinations and AIP funding would be to preclude the use of the part 150 program and AIP funds to remediate new noncompatible development within the noise contours of an airport after the effective date of such a policy revision. By precluding this option while at the same time emphasizing the array of preventive land use measures

that may be applied to potential new noncompatible development, the FAA seeks to focus airport operators and local governments more clearly on using these Federal programs to the maximum extent to prevent noncompatible development around airports, rather than attempting to mitigate noise in such development after the fact. The FAA has determined that such a policy will better serve the public interest. Unlike the FAA's previous consideration of this issue in 1989–1990, Federal funding would be available to assist airport operators in dealing with new noncompatible development that is not being successfully controlled by local jurisdictions, so long as the airport's methods prevent the noncompatible development rather than mitigating it after development has occurred. This should be a more cost effective use of limited Federal dollars since remedial land use measures generally cost more for a given unit than preventive measure.

In selecting a date to implement this policy revision, the FAA must balance a desire to implement a perceived beneficial program change as rapidly as possible with practical transition considerations of ongoing part 150 programs. One approach would be to implement it on an airport-by-airport basis, selecting either the date of the FAA's acceptance of an airport's noise exposure maps or the date of the FAA's approval of an airport's noise compatibility program under part 150.

This approach would have the advantage of directly tying this policy to a point in time for which an airport operator has defined, in a public process, the size of the airport's noise impact area and has consulted with local jurisdictions on measures to reduce and prevent noncompatible land uses. There are, however, disadvantages to this approach. Approximately 200 airports have participated in the part 150 program, beginning in the early 1980's. Thus, selecting either the noise exposure map's acceptance date or the noise compatibility program's approval date for these airports, which includes the great majority of commercial service airports with noise problems, means either applying this policy revision retroactively or applying it prospectively at some future date as such airports update their maps and programs.

Retroactive application has been suggested, which could present serious legal issues. There is also an equity issue in applying new policy retroactively, especially in view of the FAA's reaffirmation of the 1989–1990 policy. This alternative would require the FAA and airport operators to review previous part 150 maps and programs, historically reconstructing which land use development was ''existing'' at that time and which development is ''new'' since then, to potentially withdraw previous FAA part 150 determinations approving remedial measures for ''new'' development, and not issue new AIP grants for any ''new'' development (which by 1995 may have already been built and in place for a number of years and be regarded locally as an integral part of the airport's mitigation program for existing development). There is the further practical consideration of benefits to be achieved. It may now be too late to apply preventive land use measures to noncompatible land uses that have been developed since an airport's noise exposure maps have been accepted or noise compatibility program has been approved. If remedial land use measures are now determined not to be applicable to such areas, the areas would be left in limbo, having had no advance warning of a Federal policy revision.

There are also disadvantages to applying this policy revision prospectively on an airport-by-airport basis as an airport either updates a previous part 150 program or completes a first-time part 150 submission. The major disadvantages would be in the timeliness of implementing the policy revision and the universality of its coverage. Since part 150 is a voluntary program, airport operators may select their timing of entry into the program and the timing of updates to previous noise exposure maps and noise compatibility programs. The result would be a patchwork implementation, with some airports operating under the new policy regarding part 150 land use measures and funding and other airports operating under the old policy for an unspecified number of years. An unintended and counterproductive side effect could be the postponement by some airports of updated noise exposure maps and noise compatibility programs in order to maintain Federal funding eligibility under the previous policy.

A better option appears to be to select one prospective date nationwide as the effective date for this policy revision rather than to implement it based on an individual airport's part 150 activities, either maps or program. A specific date would insure nationwide application on a uniform basis and would provide a more timely implementation than prospective airport-by-airport implementation dates. A specific date would also eliminate any perceived advantages in postponing new or updated part 150 programs. The selection of a specific date could either be (1) the date of issuance of a final policy revision following evaluation of comments received on this proposal or (2) a date, 180 days to a year after publication of the revised policy, allowing some amount of transition time for airport operators to accommodate previously approved part 150 programs, recent part 150 submissions, or those programs or submissions under development.

While the date of issuance of a policy revision has the advantage of timeliness, this may be outweighed by the disadvantage of too abrupt a transition from one policy to another without giving airport operators and local communities a chance to react. The FAA currently anticipates implementing a transition period from the date of issuance of a policy revision of at least 180 days to avoid disrupting airport operators' noise compatibility programs that have already been submitted to the FAA and undergoing statutory review. Provision for this period plus an additional margin of time beyond 180 days would allow airport operators adequate opportunity to amend previously completed noise compatibility programs or programs currently underway, in consultation with local jurisdictions, to make the appropriate adjustments in remedial and preventive land use measures in the programs. The revision of land use strategies submitted in a part 150 program cannot be accomplished overnight. Accordingly, the FAA is seeking comment on how long to extend a transition period beyond the 180 days noted—to a possible maximum of an additional 180 days, or 12 months from the date of issuance of the policy revision. Any time frame implemented will be established only after the careful consideration of public comments on this proposal.

The potential future expenditure of AIP funds for projects to remediate new noncompatible development during a transition period is believed to be minimal, based upon the FAA's review of the sample of airports included in the FAA's recent study and in an independent study, as well as general program knowledge. Not all airports have a problem of continuing uncontrolled noncompatible development. Among those that do have a problem, not all of them offer to provide remedial financial assistance for the new development, as shown in their part 150 submissions. Even in those cases where financial assistance for remediation is recommended for new noncompatible development, it is

generally limited in scope and identified as a lower priority than funding remediation for existing noncompatible development. Further, funding for such new noncompatible development may only be anticipated in the latter years of an airport's part 150 program when it may not be needed because of shrinking noise contours resulting from the national transition to the use of Stage 3 aircraft.

Since part 150 is a voluntary program, each airport operator has the discretion to make its own determinations regarding the impact of a revised policy on its noise compatibility program. If an impact is found, each operator could determine whether to immediately amend its program during the allowed transition period or to wait until the program is otherwise updated. However, any remedial land use measures for noncompatible development that are allowed to occur within the area of an airport's noise exposure maps after the effective date of a revised policy would not be approved under part 150 and would have to be funded locally, since they would no longer be eligible for AIP assistance from the noise set aside.

Accordingly beginning (not more than 12 months from the date of issuance of a revised policy), the FAA will approve under part 150 only remedial land use measures for existing noncompatible development and only preventive land use measures in areas of potential new noncompatible development. As of the same date, criteria for determining AIP eligibility under the noise set aside that are consistent with this policy will be applied by the FAA. Specifically, no remedial land use measures for new noncompatible development that occur after the effective date of the revised policy be eligible for AIP funding under the noise set aside, regardless of previous FAA determinations under part 150, the status of an individual airport's part 150 program, or whether the project is eligible for AIP funding under the noise set aside without a part 150 program.

Alternatives to the Proposed Policy

Depending on the comments received in response to this proposal, the FAA will consider several alternatives to the proposed policy revision, as listed below. All comments received on these alternatives, as well as other suggestions, will be considered prior to the adoption of any policy revision. Comments should focus on the extent to which an alternative would assist in preventing the development of new noncompatible land uses around airports and in assuring cost effective use of Federal funds spent on land use measures for noise purposes.

1. Retain the present policy of approving and funding under part 150 remedial land use measures without regard to the date the noncompatible development occurs.

2. Retain the present policy of approving and funding under part 150 remedial land use measures for those areas not under the control of either the airport of the airport's sponsor and for which the airport operator has taken earnest but unsuccessful steps to persuade the controlling jurisdiction to prevent the addition of new noncompatible development. New noncompatible development in areas under the land use control jurisdiction of either the airport or the airport operator would not be approved under part 150 nor be eligible for funding under the AIP.

3. Retain the present policy only with respect to noncompatible land uses that will remain within the DNL 65 dB contour after the transition to an all Stage 3 fleet.

4. Retain the present policy with respect to part 150 approval, but eliminate Federal funding eligibility for remedial measures for new noncompatible development.

5. Implement the proposed policy on an airport-by-airport basis, selecting either the date of the FAA's acceptance of an airport's noise exposure maps or the date of the FAA's approval of an airport's noise compatibility program under part 150. Includes consideration of whether implementation should be retroactive or prospective.

Issued in Washington, DC on March 14, 1995.

Paul R. Dykeman,

Acting Director of Environment and Energy.

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BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 134

RIN 1515–AB68

Country of Origin Marking Requirements for Watches

AGENCY: Customs Service, Department of Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document provides advance notice of a proposal to amend the Customs Regulations to prescribe specific rules regarding the country of origin marking of watches to ensure that the marking is conspicuous and legible. The purpose of this document is to assist in determining whether a rulemaking is needed to ensure a uniform standard for conspicuous and legible country of origin marking for watches, and if needed, the contents of that rulemaking.

DATES: Comments must be received on or before May 4, 1995.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, Franklin Court, 1301 Constitution Ave., NW., Washington, DC. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, Franklin Court, 1099 14th Street, Suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Burton Schlissel, Special Classification and Marking Branch, Office of Regulations and Rulings (202–482–6980).

SUPPLEMENTARY INFORMATION:

Background

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or its container) will permit, in such manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. Part 134, Customs Regulations (19 CFR part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304. Under § 134.41(b), Customs Regulations (19 CFR 134.41(b)), a country of origin marking is considered conspicuous if the ultimate purchaser in the United States is able to find the marking easily and read it without strain.

It has come to the attention of the Customs Service that over the years watches have been imported into the United States with very tiny country of origin markings. Usually these markings are in very small letters on the bottom of the dial (face) of the watch. Generally, these markings are exceptionally difficult to find and read. In fact, the country of origin markings on many watches are so tiny that a magnifying glass is needed in order to read them. Country of origin markings on watches which are so difficult to find and read